

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE  
Criminal Application No.866 of 2007  
In  
Criminal Appeal No.527 of 2006

1. Prakash Laxman Chavan  
2. Sanjay Srirang Nikam  
Vs.  
State of Maharashtra

Applicants  
  
Respondent

Mr.Rajiv Patil with Mr.M.S.Mohite and Mr.V.V.  
Purwant for applicants.  
Mr.D.P.Adsule, APP for State.

CORAM: B.H.MARLAPALLE, J.  
October 26, 2007.

P.C.

. This is an application for bail during the pendency of Criminal Appeal No.527 of 2006 and the applicants are accused no.1 and accused no.2. The learned APP has filed affidavit as well as additional affidavit of Shri Avinash Bargal, SDPO, Phaltan, Dist. Satara and has opposed the plea for bail on the ground that some cases are still pending against the applicants and out those pending cases some of them are for the offences punishable under Sections 392 as well as 397 read with Section 34 of IPC.

. Mr.Patil, the learned counsel for the applicants has pointed out that the accused no.1 has deposited the fine amount of Rs.2,50,000/- as

directed by the Apex Court by its order dated 1/12/2006. He has further pointed out that though the accused no.2 has not deposited the fine amount, he has already undergone a sentence of about two years out of the maximum sentence of five years' RI.

. Both the applicants came to be arrested on 29/9/2002 and applicant no.2 - Sanjay Nikam was released on bail on 26/3/2003 whereas accused no.1 - Prakash Chavan remained in custody as an under-trial till 26/3/2004 and thus he has been in prison for about three years by now having regards to the set off granted to him under Section 428 of Cr.P.C. and has thus suffered more than half of the sentence period of five years. By the earlier order dated 12/10/2007 liberty was granted to the applicants to amend the application to consider the sole ground in support of the plea for bail that the accused persons have undergone about more than three years of sentence. However, in the case of applicant no.2 it is obvious that by now he has undergone a sentence of only two years.

. So far as accused no.1 - Prakash Chavan is concerned, Mr.Patil has pointed out that in none of

the pending cases he has already been acquitted and the appeal filed by all the accused jointly i.e. Criminal Appeal No.527 of 2006 is not yet ready for final hearing and it may not be listed for hearing in the near future. There is some force in these contentions of Mr.Patil and I am, therefore, inclined to consider the bail plea of applicant no.1 - Prakash Chavan for the time being.

. Hence the application is partly allowed and it is directed that accused no.1 - Prakash Chavan be released on bail in the sum of Rs.50,000/- and two solvent sureties in the like amount. In addition he shall report to Phaltan Police Station once in a fortnight till the pending appeal is finally decided.

. So far as accused no.2 - Sanjay Nikam is concerned, he is at liberty to apply afresh if the pending appeal is not listed for final hearing till January 2008.

(B.H.MARL